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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William K. Meade II

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HEWLETT-PACKARD COMPANY

Intellectual Property Administration

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EXAMINER

BROOKS, MATTHEW L

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/981,771	MEADE, WILLIAM K.	
	Examiner	Art Unit	
	Matthew L. Brooks	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Applicant need to sufficiently submit a new page with "Cross Reference to Related Applications.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With respect to claim 1; there is a lack of antecedent basis for "the appliance" and "the plurality of mobile computing devices". Also with respect to "at least one"; Examiner is interpreting that there is two mobile devices, otherwise there would be no need to determine priority. Further the first step states that the computing device controls the appliance; next step then states that the priority of control is established. The order of the wording therefore implies that the computing device gains control over the appliance before its priority of control over the appliance has been established. This appears to conflict with the aim of the invention which is to establish priority before the computing device can control the appliance.

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5. With respect to claims 3 and 4 there is a lack of antecedent basis for "the priority rule" because as of yet none has been selected.

6. With respect to claim 5; Applicant is missing at least two essential steps; between steps (b) and (c) mobile device one and/or two must attempt control. And after step (c) depending upon priority rule user should now control appliance.

7. With respect to claim 6, in regards to the system; the Applicant is missing the essential components of the plurality of mobile devices and the actual appliance. Further still component (c) the memory is likely configured to store "priority rules". Furthermore the term "priority contention moderator" is indefinite, in that the term moderator is defined in computer dictionaries as a human; however for purposes of this examination it is merely read as a program that determines the applicable priority.

8. With respect to claim 10 the preamble starts off as a computer readable medium then reads "the method comprising:"

Appropriate action is required.

9. With respect to all of the claims; but With respect to claims 3 and 5; claim 5 claims a mobile computing device for performing the method of claims 1-4. The claim may require that the mobile computing device incorporates a priority contention moderator for determining priority of control. This is inconsistent with claim 3 in which the appliance is used to apply the priority rule. Examiner is currently of the position that the location of the priority moderator is an arbitrary design, so long as priority rule is properly applied.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims **1-2 and 4-8 and 10-11 and 13-14** are rejected under 35 U.S.C. 102(e) as being anticipated by US 2001/0025376 A1 (Knobl).

12. With respect to **Claim 1** : Knobl teaches

A method of controlling an appliance comprising:

(a) controlling the appliance with at least one of a plurality of mobile computing devices (See Fig 1 and [0016], “operating unit” equivalent to mobile computing device); and

(b) establishing priority of control over the appliance between the plurality of mobile computing devices using a priority rule ([0016]) .

13. With respect to **Claim 2 and 11** : Knobl teaches

wherein establishing priority comprises use of one or more of the following rules:

(1) granting no priority when all mobile computing devices select the same function and content of the appliance;

(2) granting priority to the first mobile computing device to establish communication with the appliance;

(3) granting priority to the mobile computing device having the closest location to the appliance;

(4) granting priority to the mobile computing device that pays the most money for priority;

(5) granting priority to the mobile computing devices based on their self-selected priority;

(6) granting priority to the mobile computing devices in alternating fashion;

(7) granting priority to the mobile computing devices using pay-for-priority based on priority by volume units;

(8) granting priority to the mobile computing devices based on rules manually established by the mobile computing devices; and

(9) granting priority to the mobile computing devices based on which mobile computing device wins a game on the appliance played by all mobile computing devices.

(See [0016]).

14. With respect to **Claim 4** : Knobl teaches

using the mobile computing devices in mutual cooperation to apply the priority rule for determining award of control over the appliance between the mobile computing devices ([0016]).

15. With respect to **Claim 5** : Knobl teaches

(a) identifying a priority rule with the appliance to determine priority of control over the appliance between a first mobile computing device and a second mobile computing device ([0016]);

(b) establishing a wireless communication link between the appliance, a first mobile computing device and the second mobile computing device [0039]; and

(c) applying the priority rule to grant priority of control between the first mobile computing device and the second mobile computing device [0016].

16. With respect to **Claim 6** : Knobl teaches

An appliance control system comprising: a mobile computing device including:

(a) a controller (Fig. 1);

(b) a memory configured for storing content and user preferences [0008];

(c) a wireless communicator configured for wireless communication with an appliance [0039];

(d) a display with a user interface (Fig 1); and

(e) a priority contention moderator configured for determining priority between a plurality of mobile computing devices competing for control of an appliance [0008].

17. With respect to **Claim 7** : Knobl teaches

A mobile computing device including:

(a) a controller (Fig 1);

(b) a wireless communicator configured for wireless communication with an appliance[0039];

(c) a priority contention moderator configured for determining priority between a plurality of mobile computing devices competing for control of the appliance [0008].

18. With respect to **Claim 10** : Knobl teaches

A computer-readable medium having computer-executable instructions for performing a method of controlling an appliance, the method comprising:

controlling the appliance with at least one of a plurality of mobile computing devices (Fig 1); and

establishing priority of control over the appliance between the plurality of mobile computing devices using a priority criteria [0008] and [0030].

19. With respect to **Claim 13** : Knobl teaches

using the mobile computing devices in mutual cooperation to apply the priority rule for determining award of control over the appliance between the mobile computing devices (Fig 1 and [0016]).

20. With respect to **Claim 14** : Knobl teaches

A computer-readable medium having computer-executable instructions for performing a method of controlling an appliance, the method comprising:

(a) identifying a priority rule with the appliance to determine priority of control over the appliance between a first mobile computing device and a second mobile computing device [0016];

(b) establishing a wireless communication link between the appliance, a first mobile computing device and the second mobile computing device [0039]; and

(c) applying the priority rule to grant priority of control between the first

mobile computing device and the second mobile computing device [0016].

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

23. **Claims 3, 8, 9, and 12** are rejected in the alternative under 35 U.S.C. 103(a) as being unpatentable over Knobl.

24. Knobl teaches all of the limitations of the invention as claimed (at least until the 112's are resolved).

Arguably, Knobl does not teach that the mobile device or the appliance applies the rules, rather Knobl uses a separate control unit/contention moderator to apply the priority rule/s.

However it would have been obvious to one of ordinary skill in the art to incorporate the control unit into an appliance and/or processor to reduce the amount of components of the system. Further, there is no unexpected benefit/result of

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incorporating the moderator into the appliance and/or mobile unit and is an arbitrary design choice because a user would still get the exact same result, an application of the appropriate priority rule.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-8112. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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7/22/06



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